

**APPENDIX A - BIOLOGICAL MITIGATION ORDINANCE****ORDINANCE NO. \_\_\_\_\_ (NEW SERIES)****AN ORDINANCE AMENDING TITLE 8, DIVISION 6, CHAPTER 5 OF THE SAN DIEGO CODE OF REGULATORY ORDINANCES RELATING TO BIOLOGICAL MITIGATION**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that it needs to amend Title 8, Division 6, Chapter 5 of the San Diego County Code of Regulatory Ordinances relating to biological mitigation for projects subject to the County's Multiple Species Conservation Plan within the northern and southern parts of the County.

**Section 2.** Amend Title 8, Division 6, Chapter 5 of the San Diego County Code of Regulatory Ordinances to read as follows:

**CHAPTER 5. BIOLOGICAL MITIGATION ORDINANCE****Article 1. South County Biological Mitigation**

**[THE SOUTH COUNTY BIOLOGICAL MITIGATION ORDINANCE  
WILL BE INSERTED HERE]**

**Article 2. North County Biological Mitigation****SEC. 86.510. FINDINGS, PURPOSE, AND INTENT**

The Board of Supervisors finds that the ecosystems of the County of San Diego (County) and the vegetation communities and sensitive species that they support are fragile, irreplaceable resources that are vital to the general welfare of all residents. As these vegetation communities contain habitat value that contributes to the region's environmental resources, special protections for these vegetation communities must be established to prevent future threat to and endangerment of the plant and animal species that are dependent upon them. This article will set forth manners in which the County's biological resources may be protected, their degradation and loss may be prevented by steering development outside of Pre-Approved Mitigation Areas (PAMA) and will establish design criteria within PAMA and mitigation standards for all discretionary and County-initiated projects. Adoption and implementation of this article will enable the County to achieve the conservation goals set forth in the Multiple Species Conservation Program (MSCP), North County Plan (Plan) adopted by the Board of Supervisors

on [adoption date] and will preserve the ability of affected property owners to make reasonable use of their land subject to the requirements of the California Environmental Quality Act (CEQA), Public Resources Code § 21000 et seq., and other applicable laws, and the avoidance and mitigation requirements contained herein. By adhering to this article, project applicants may receive limited take for species covered under the Plan.

This article sets forth the criteria for avoiding impacts to habitat lands and plant and animal populations within the PAMA, and the mitigation requirements for all projects requiring a discretionary permit, or that are County-initiated. It is the policy of this article to promote the preservation of biological resources by directing preservation toward land that can be combined to form or contribute to contiguous areas of habitat or linkages. It is further the policy of this article to give greater value to the preservation of large, contiguous habitat, core areas, and linkages between them when formulating avoidance and mitigation requirements.

Protection of sensitive species is required in order to gain coverage of species under the Plan. Depending on the sensitivity of the individual species, their avoidance or mitigation is also necessary in order to comply with CEQA.

Nothing in this article shall be construed to reduce any requirements to protect environmentally sensitive lands contained in any other County plan, ordinance, policy, or regulation or CEQA (Cal. Pub. Res. § 21000 et seq.) CEQA Guidelines (14 Cal. Code Regs. § 15000 et seq.), or other applicable state or federal regulations.

## **SEC. 86.511. DEFINITIONS**

For the purposes of this article, the following words and phrases shall have the meanings set forth, below. These definitions are to be broadly interpreted and construed to provide maximum protection to the plant and animal species and environmentally sensitive habitat protected by this article.

(a) “Agriculture” means routine and ongoing commercial operations associated with farm, grove, dairy, or other agricultural business and shall be consistent with the economics of commercial agricultural operations and other similar agricultural activities. Agricultural land left fallow for up to four years shall be considered to be an existing agricultural operation for purposes of this ordinance. The final determination of a qualifying use shall be made by the Director of the Department of Planning and Land Use. Agriculture includes:

(1) The cultivation and tillage of the soil; crop rotation; fallowing for agricultural purposes; and production, cultivation, growing, replanting, and harvesting of any agricultural commodity including viticulture, vermiculture, apiculture, or horticulture.

(2) The raising of livestock, fur bearing animals, fish, or poultry and dairying.

(3) Any practices performed by a farmer on a farm incidental to or in conjunction with those farming or grove operations, including the preparation for market and delivery to storage, market, or carriers for transportation to market.

- (4) Ordinary pasture maintenance and renovation consistent with rangeland management and soil disturbance activities.
- (b) "Clearing" refers to the removal of natural vegetation by any means, including brushing, grubbing, and/or disking.
- (c) "Corridor" means a specific route that is used for movement of species. A corridor may be different from a "linkage" in that a corridor represents a smaller or narrower avenue for movement.
- (d) "Developed Land" means land that has been constructed upon or otherwise covered with a permanent or semi-permanent unnatural surface (Holland 12000). Regardless of substrate, areas covered by a large amount of debris or other materials may also be considered Developed Land (i.e., car recycling plant, quarry).
- (e) "Director" means the Director of Planning and Land Use, Director of Public Works, or Director of Agriculture, Weights, and Measures, depending upon the permit being issued or determination being made.
- (f) "Disturbed Land" means areas that have been physically disturbed (by previous legal human activity) or invaded by nonnative species and are no longer recognizable as a native or naturalized vegetation association, but continues to retain a soil substrate. This would include areas that have been graded, repeatedly cleared for fuel management purposes and/or experienced repeated use that prevents natural revegetation (i.e., dirt parking lots, trails that have been present for several decades). Typically vegetation, if present, is nearly exclusively composed of non-native plant species such as ornamentals or ruderal exotic species that take advantage of disturbance, or shows signs of past or present animal usage that removes any capability of providing viable natural habitat for uses other than dispersal. Habitat that is the result of natural processes and succession may not be considered disturbed land.
- (g) "Edge Effects" means indirect impacts to a preserve area caused by the existence of development adjacent to the preserve area.
- (h) "Grading" means any excavating, filling, removal and recompaction, or combination thereof and shall include the land in its excavated or filled condition. The most current County of San Diego Grading Ordinance may be referred to for detailed definitions of grading.
- (i) "Habitat Loss Permit" A permit issued by the Director of Planning and Land Use authorizing the disturbance or removal of coastal sage scrub whether or not occupied by the California gnatcatcher.
- (j) "HCP/NCCP Plan" means a Habitat Conservation Plan (HCP) approved pursuant to 16 U.S.C. § 1539(a)(2)(A) and Natural Communities Conservation Program Plan (NCCP) developed in accordance with the Natural Communities Conservation Act, Cal. Fish and Game Code § 2800 et seq.

- (k) “In-kind Mitigation” means mitigation with the same species or vegetation community classification as the site being impacted.
- (l) “Interfere” means to permanently impact important biological functions in corridors, linkages, and core areas of the preserve system as described in the Plan.
- (m) “Linkage” means an area of land that supports or contributes to the long-term movement of wildlife and genetic exchange by providing live-in habitat that connects to other habitat areas.
- (n) “Mature Riparian Woodland” means a riparian woodland in which at least 10 percent of the canopy within the riparian reach is comprised of trees (sycamores, cottonwoods, willows and/or oak trees) with a trunk diameter of six inches or greater.
- (o) “Native Vegetation” means vegetation composed of plants that occur naturally in the San Diego region and not introduced directly or indirectly by humans. Native vegetation may be found in, but is not limited to, marshes, native grasslands, coastal/inland sage scrub, chaparral, woodlands, forests, and other vegetation communities.
- (p) “Natural Vegetation” means those vegetation communities included in Tiers I, II, and III on the List of San Diego County Vegetation Communities and Tier Levels (Attachment D). Non-native grassland shall be included under this definition as it is a naturalized community that provides habitat for native and sensitive plants and animal species.
- (q) “Non-native grassland” means land that supports predominantly non-native, annual grasses such as *Avena*, *Bromus*, *Erodium*, *Brassica*, and other annual species and corresponds to Holland Code 42200.
- (r) “Population” means an interbreeding group of individuals of the same species. The geographical limits of a population should be delineated as most appropriate for that species depending on its mobility, method of reproduction, and known distribution. Proportions of a population shall generally be determined based on the number of individuals, although determinations based upon area may be appropriate for some species.
- (s) “Pre-Approved Mitigation Area” means natural land within the boundaries of the Pre-Approved Mitigation Area (PAMA) shown on Attachment A.
- (t) “Riparian Reach” are riparian segments with homogenous characteristics including: geology, geomorphology, channel geometry, substrate, discharge, vegetation community, and cultural alteration. The length of a riparian reach will vary, but generally is 150 to 300 m.
- (u) “Sensitive Species” means:
- (1) Those species that are included on generally accepted and documented lists of plants and animals that are endangered, threatened, candidate, or of special concern by the federal government or State of California.

- (2) Narrow endemic plant species and sensitive plant species as defined by this article.
- (3) Those species that meet the definition of "Rare or Endangered Species" under Section 15380 of the state CEQA Guidelines.
- (4) Plants that meet one of the following criteria as determined by the County and maintained in its list of sensitive plant species:
  - (A) Group A - Plants that are rare, threatened, or endangered in California and elsewhere.
  - (B) Group B - Plants that are rare, threatened, or endangered in California but more common elsewhere.
  - (C) Group C - Plants that may be rare, but which require more information to determine their true rarity status.
  - (D) Group D - Plants of limited distribution and/or that are uncommon, but not presently considered rare or endangered.
- (v) "Significant Population" means a group or groups of sensitive species, wherever located, the loss of which would substantially reduce the likelihood of the survival and recovery of the species in The County as defined in the Plan's species specific goals and objectives.
- (w) "Steep Slope Lands" means all lands having a slope with natural gradient of 25% or greater and a minimum rise of 50 feet, unless said land has been substantially disturbed by previous legal grading. The minimum rise shall be measured vertically from the toe of slope to the top of slope within the project boundary.
- (x) "Suitable habitat" means an area that meets the habitat needs of a species and is likely to be utilized by that species at some point within a 5-year period. If an area appears to contain the appropriate elements for a species and is within dispersal distance of known populations and without substantial barriers, it should be considered suitable habitat unless demonstrated otherwise through appropriate and adequate field surveys.
- (y) "Take Authorized Area" means the areas designated on the map attached hereto and marked Attachment A.
- (z) "Territory" means the normal land area occupied and utilized by an animal for shelter, feeding, and/or breeding.
- (aa) "Viable" means capable of maintaining normal ecosystem functions over the long term (at least 50 years) that sustain a full suite of native or naturalized species without intensive direct human intervention. A viable population is defined as a population capable of persisting over the long term (at least 50 years).

(bb) “Watershed” means all surface area that drains toward a body of water, including vernal pools.

(cc) “Wetland” has the same meaning as defined in Resource Protection Ordinance section 86.602.

(dd) “Wetland Buffer” means an area of an appropriate size to protect the environmental and functional habitat values of the wetland or that are integrally important to support the full range of the wetland and adjacent upland biological community as defined in Resource Protection Ordinance section 86.602.

(ee) “Wildlife Agencies” means the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG).

#### **SEC. 86.512. GENERAL PROVISIONS.**

(a) Except as set forth in section 86.513, this article shall apply to all land within Plan area, as shown on Attachment A. Upon application for a discretionary approval, the applicant shall be required to comply with the procedures set forth in this article. No project requiring a discretionary permit shall be approved unless findings are made that the project is consistent with the Plan and the provisions of this article and, therefore, will not interfere with the assembly of the North County preserve system.

(b) In certain cases, during CEQA review or design of a project, site specific physical conditions, including geology, slope, or location of infrastructure, may be identified that make it infeasible for the project to meet all goals, criteria, or other requirements in the Plan, although the project could be constructed without compromising the conservation of species and/or habitat pursuant to the Plan. In such instances, the County may grant an exception to this article in conjunction with granting an exception to the Plan. The exception shall be the minimum necessary to afford relief and accommodate development. An exception to the Plan requires the concurrence of the Wildlife Agencies.

(c) Habitat loss or other take of endangered or threatened species that is not authorized or in conformance with the Plan or other applicable County ordinances is not eligible to receive Third Party Incidental Take permits through the Plan. Through resolution of violation cases by code enforcement, projects shall conform to the provisions of this ordinance. Additionally, resolution of these cases may include increased mitigation ratios and/or habitat restoration. Enforcement actions by the USFWS or CDFG for a violation of their respective endangered species acts may still apply at the discretion of those agencies.

#### **SEC. 86.513. EXEMPTIONS**

The following projects are exempt from the provisions of this article and may receive Third Party Beneficiary. A determination that the project is exempt must be made prior to impacts to

any species or natural vegetation. Projects are subject to the applicable provisions of section 86.514.

(a) **Residential brushing and clearing** of vegetation:

(1) Brushing and clearing of vegetation on a parcel that is zoned for single family residential use and contains an existing, permitted dwelling unit or structures associated with that use as of [adoption date], provided that the brushing and clearing shall not exceed a total of five acres and shall be located immediately adjacent to the structures associated with residential use.

(2) Brushing and clearing of vegetation on an undeveloped parcel that is zoned for single family residential use and the brushing or clearing is for the sole purpose of constructing a single-family residence, a driveway, and associated residential uses, subject to the following:

(A) The total number of acres subject to this exemption shall not exceed the following amounts:

i. Parcels located within the PAMA shown on Attachment A may clear a total of two acres without complying with the terms of this article.

ii. Parcels located outside the PAMA shown on Attachment A may clear a total of five acres without complying with the terms of this article.

(B) The proposed brushing or clearing shall be located entirely within the parcel for which the single-family residence and associated uses are proposed.

(C) The proposed project shall be subject to a discretionary action such as a clearing permit, grading permit, site plan, or other permits.

(b) The following **County-initiated actions**:

(1) The adoption or amendment of the General Plan.

(2) The adoption or amendment of any ordinance.

(c) **County facilities** or public projects, determined to be essential by the County, including but not limited to a County Park or County Recreational facilities.

(d) Any Pre-Negotiated (Hardlined) **Take Authorized Area** shown on Attachment A. Direct project impacts must occur within the Take Authorized area shown on Attachment A and to the extent described in the Plan, Appendix E.

(e) Projects with a valid **Section 10 permit** issued pursuant to the Endangered Species Acts, approved prior to the adoption of this ordinance.

(f) Any project approved by the County with a valid **Habitat Loss Permit** issued pursuant to 16 U.S.C. §1533 (d).

(g) The establishment or expansion of any **agricultural operation** onto natural habitat within the Plan area and outside of the PAMA provided that the following are required as conditions of any use permit approved for such project.

(1) Clearing of Tier I habitats, as defined in Attachment D, is prohibited.

(2) Clearing of populations of narrow endemics, as defined in Attachment E, or their suitable habitat, is prohibited.

(3) A permanent limited building zone easement, agricultural conservation easement, or open space easement, which allows for agricultural uses only, has been dedicated over the area to be cleared.

(4) An exhibit depicting the location and number of acres for which the exemption is sought shall be provided to the Department of Planning and Land Use.

(h) Lot splits or other minor projects that cause **minor impacts** and meet all the following criteria:

(1) The project site is located entirely outside the PAMA.

(2) The project will not affect Tier I habitat.

(3) The project will not affect more than one quarter acre of Tier II habitat.

(4) The project will not affect more than one acre of Tier III habitat.

(5) The project will not impact any narrow endemic species or their suitable habitat.

#### **SEC. 86.514. FINDINGS FOR EXEMPT PROJECTS**

(a) The single family residential projects described in section 86.513(a) may be exempt from the provisions of this article and may receive Third Party Beneficiary if it can be found that:

(1) The project does not impact wetlands.

(2) The project will not directly or indirectly impact an open space preserve.

(3) The project will not interfere with linkages (as shown in Attachment C).

(4) The project will not directly impact a known significant population of any species listed in Attachment E.



(b) Essential County facilities as described in section 86.513(c) may be exempt from the provisions of this article if:

- (1) The project conforms to the adopted County General Plan.
- (2) If an environmental analysis concludes that there will be impacts to natural habitats, mitigation is consistent with the mitigation ratios set forth in Section 86.519.
- (3) Species listed in Attachment E within the Plan area have been avoided to the maximum extent practicable and mitigation measures are consistent with the Plan.
- (4) New road designs have incorporated appropriate wildlife crossings in accordance with the Wildlife Crossings Guidelines in Section 7.6 of the Plan.

(c) The establishment or expansion of any existing agricultural operation described in section 86.513(g) may be exempt from the provisions of this article and may receive Third Party Beneficiary if it can be found that:

- (1) The land subject to the expansion is not located within the PAMA (Attachment A).
- (2) The land subject to the expansion is not located within a floodplain.

#### **SEC. 86.515. CERTIFICATES OF PARTICIPATION.**

(a) Projects that have received their discretionary approvals from the County prior to [adoption date + 1 month] may, at the option of the project proponent apply for Certificates of Participation using the process set forth below:

The County shall review such applications to determine if the project conforms to the standards of the Plan and this article. If the review results in a determination that the project conforms to those standards, the County will issue draft Findings of Conformance for a 45-day review period by the Wildlife Agencies. Unless written objections related to the Findings of Conformance are received from the Wildlife Agencies by the end of the 45-day review period, the County will issue the Certificate of Participation. If the County finds that the proposed project does not meet the standards set forth in the Plan and this article, the project proponent will be informed of the deficiencies and proper procedures for achieving and assuring conformance to the requirements.

(b) If a special district, such as a water or school district, would like to receive Third Party Beneficiary status for a project in which the district is the lead agency, it can apply to the County for an Administrative Permit for clearing. The same process outlined above will be followed to grant Third Party Beneficiary status to a special district.

#### **SEC. 86.516. ADMINISTRATIVE PROCESS AND FINDINGS.**

(a) Projects subject to the provisions of this article shall include with their application the following:

- (1) An Environmental Initial Study, pursuant to the County's CEQA Guidelines.
- (2) A biological resources report prepared by a biological consultant approved by the County to the appropriate County department. The biological report must be prepared in accordance with the current report format and content requirements for biological resources.
- (3) All required studies shall be performed using the protocols approved by the Wildlife Agencies at the time the application is submitted. Information from site-specific surveys shall supersede regional vegetation mapping.

(b) Before any project subject to the requirements of this article may be approved, it shall be found that:

- (1) The project is consistent with the Plan.
- (2) The project avoids impacts to natural habitat and species within PAMA to the maximum extent practicable.
- (3) The project protects the biological values of regional linkages.
- (4) The project protects the biological functions of regional wildlife movement corridors.

#### **SEC. 86.517. PROJECT AND PRESERVE DESIGN CRITERIA.**

Projects in PAMA shall be designed using the following criteria to avoid impacts to natural habitats and sensitive species within PAMA to the maximum extent practicable:

**(a) Project Design.**

- (1) Locate the development in areas that minimize impacts to natural habitat so that every effort has been made to avoid impacts to PAMA and sensitive biological resources.
- (2) Utilize consolidation of development to the maximum extent permitted by County regulations to avoid natural habitats and sensitive species.
- (3) Notwithstanding the requirements of the Slope Encroachment Regulations contained within the Resource Protection Ordinance, the project may encroach into steep slopes in order to avoid impacts to natural habitats and sensitive species that cannot be avoided by other means.

- (4) Design roads to minimize impacts to habitat through design standards such as locating of roads to reduce impacts from grading, clustering of development to reduce length of roads and associated grading, use of alternative permeable paving materials and methods, paved road widths, and curve radii, consistent with applicable public safety considerations.

Impacts within the PAMA on natural habitats and sensitive species shall be avoided to the maximum extent practicable by designing open space areas meeting the following criteria:

**(b) Preserve design criteria.**

- (1) Core Areas. Project conserves large blocks of unfragmented and interconnected habitat that contributes to the preservation of wide-ranging species by avoiding development in core areas or by siting development at the edge of the core area or in the otherwise least impactful location. Project maintains areas of high ecological integrity (i.e., undeveloped areas with no paved roads).
- (2) Natural Processes. Project maintains intact hydrological processes and high water quality by avoiding significant development in watershed basins of high integrity, as indicated by minimal pre-existing disturbance (development or paved roads).
- (3) Ecological Gradients. Project contributes to the conservation of contiguous, unfragmented habitats between coastal, inland valley, and mountain zones of the county that include a gradient of broad elevational and other environmental gradients to accommodate shifts in species distributions during periods of climate flux.
- (4) Diversity. Maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features (i.e., soil types, rock outcrops, drainages, host plants).
- (5) Rare Species. Preserve significant populations (see Plan, Volume II) of sensitive or listed species, and species listed in Attachment E, when they are found on site. Minimize impacts to smaller populations or mitigated appropriately.
- (6) Connectivity. Preserve the biological integrity of natural and semi-natural (i.e., agricultural or disturbed areas) areas that serve as linkages between core areas of the PAMA (Attachment C) or preserved core areas outside of the Plan area. Avoid fragmentation of large habitat blocks within core areas of the PAMA.
- (7) Wetlands. Incorporate wetland buffers and other design features, such as stormwater treatment structures, walls, and fences to prevent a net loss of wetland functions and values. Wetland buffers shall extend at least 50 to 200 feet from the outer edge of the mapped wetland and consistent with County, state and federal wetland goals, policies, and standards.

(8) Edge Effects. Minimize edge effects by maximizing the surface area to perimeter ratio of the preserved land to reduce potential impacts from new development on biological resources within the PAMA or preserves, including potential negative impacts to lands preserved or proposed for preservation, such as unauthorized human access, non-native predators, non-native species, illumination, drain water (point source), urban runoff (non-point source), and noise.

**(c) Regional linkage design criteria:**

- (1) Provide for live-in habitat within linkages shown in Attachment C.
- (2) Provide for adequate width to accommodate target species based on biological information for the target species, quality of the habitat within and adjacent to the linkage, topography, and adjacent land uses. In cases where there is limited topographic relief, linkages shall be well vegetated and adequately buffered from adjacent development.

**(d) Corridor design criteria.**

- (1) Protect corridors that contain good vegetation or topographic cover.
- (2) If a corridor is relatively long, it shall be wide enough to provide shelter for animals during the day. If narrow corridors are unavoidable, the length shall be the minimum required to conform to the corridor design criteria. Corridors for bobcats, deer, and other large animals shall reach rim-to-rim along drainages, especially if the topography is steep.
- (3) Provide visual continuity within movement corridors to encourage wildlife to keep moving through the corridor. Development along the rim of a canyon used as a corridor shall maintain appropriate set backs from the canyon rim and be screened to minimize visual impacts from graded areas and lighting.

**SEC. 86.518. HABITAT BASED MITIGATION.**

a) The following shall be used to determine mitigation for impacts to sensitive habitats:

- (1) The tier level of vegetation communities present on the impact or mitigation site shall be identified in accordance with the List of Vegetation Communities and Tier Levels within the Plan (Attachment D).
- (2) In accordance with the following table, the mitigation ratio shall be determined by locating the tier of the vegetation community to be impacted and whether the impact site is within the PAMA.

	Impacted land within the PAMA	Impacted land outside the PAMA
TIER I	2:1	1:1
TIER II	1.5:1	1:1
TIER III	1:1	0.5:1

(3) Mitigation for impacts to vegetation communities within the Plan area (Attachment A) shall occur within the Plan area. Mitigation shall be within a habitat tier equal to or greater than the impact site, unless in-kind mitigation is required as specified in the List of Vegetation Communities and Tier Levels within the Plan (Attachment D). If a vegetation community becomes out of “rough step”, in-kind mitigation for impacts to that vegetation community will be required.

(4) Except as provided in section 86.518(a)(5), mitigation shall occur within the PAMA.

(5) Crediting of on-site open space outside of PAMA is prohibited unless a significant population a narrow endemic species listed in Attachment E is preserved.

(6) Projects containing wetlands shall demonstrate that impacts to wetlands will be avoided to the maximum extent practicable. If impacts are proposed, such impacts shall be minimized. Avoided wetlands must be preserved on a project site, including an appropriate wetland buffer to ensure no net loss of wetlands.

(7) Impacts to vernal pools and their watersheds in naturally occurring complexes and wetlands shall be avoided to the maximum extent practicable.

(A) Impacts to vernal pools in the Ramona Vernal Pool Planning Area (Attachment F) shall be mitigated consistent with the plan set forth in Section 7.3.3 of the Plan. Mitigation ratios will be determined according to terms of a future mitigation bank established for the purpose of mitigating impacts to vernal pools in this specific area.

(B) Unavoidable impacts to vernal pools outside the Ramona Vernal Pool Planning Area shall be mitigated at a 3:1 ratio with at least one part vernal pool creation/restoration. These mitigation requirements are minimum County requirements that may be fulfilled in whole or part by mitigation requirements of other agencies (i.e., USFWS, CDFG, RWQCB, and Army Corps of Engineers) that may have jurisdiction over some vernal pools.

(b) Where a project contains agricultural lands that are important for meeting preserve design findings, these areas may be credited as mitigation toward Tier III habitat impacts on site. Agricultural lands credited as mitigation shall follow management practices that maintain the biological functions identified for these areas.

(c) Land used to mitigate impacts to sensitive habitat may also be used to mitigate species-specific impacts according to Section 86.519.

(d) Lands used for mitigation or otherwise outside of the developable area will be permanently conserved through an appropriate mechanism (e.g., conservation easement, fee title transfer, other easement, etc...).

#### **SEC. 86.519. SPECIES-BASED MITIGATION.**

The following shall be used to determine mitigation requirements for impacts to sensitive plant and animal populations within the Plan area. Off-site mitigation shall occur within the PAMA:

(a) Narrow Endemics.

(1) Impacts to narrow endemic species (Attachment E) within the Plan area (Attachment A) shall be avoided to the maximum extent practicable.

(2) Where complete avoidance is infeasible, encroachment may be allowed, provided the County finds that the population will remain viable.

(A) Impacts to populations shall not exceed 20 percent of the on-site population. Impacts to populations will be assessed as appropriate for the species (number of individuals, area occupied; see Plan, Table 7-4) Where impacts from such encroachment are allowed, at least 80 percent of the population must remain viable and be conserved.

(B) Exceptions may be considered on a case by case basis according to the guidelines set forth in the Plan (Section 7.4.1).

(b) Sensitive Plant Species.

(1) Except as set forth in section 86.519(b)(1)(C), impacts to sensitive plant species within the Plan area (Attachment A) not covered by the Plan shall be mitigated as follows:

(A) Impacts to sensitive plant species in Groups A and B, as identified on the County of San Diego Sensitive Plants List, shall be avoided to the maximum extent practicable. Where complete avoidance is infeasible, encroachment may be authorized provided that the population will remain viable. Where impacts from such encroachment are allowed, in-kind mitigation shall be required within the PAMA at a 2:1 ratio for Group A species and 1:1 ratio for Group B species.

(B) Sensitive plant species in Groups C and D, as identified on the County of San Diego Sensitive Plants List, shall be protected through design and habitat-based mitigation requirements set forth in this article.

(C) If design requirements and habitat-based mitigation would have the effect of substantially reducing the viability of the affected population or species, mitigation shall be in-kind and set at a ratio based on the sensitivity of the species and population size, as determined in a biological analysis approved by the Department of Planning and Land Use.

(c) Impacts to the following covered animal species require additional conservation measures.

(1) Impacts to burrowing owl habitat shall be avoided to the maximum extent practicable. Where impacts are unavoidable, the following mitigation measures shall be required:

(A) Any impacted individuals shall be relocated out of the impact area using passive methodologies approved by the Wildlife Agencies.

(B) Mitigation for impacts to occupied habitat must be achieved through conservation of occupied burrowing owl habitat or lands appropriate for restoration, management, and enhancement of burrowing owl nesting and foraging requirements at a ratio of no less than 1:1 for the territory of the burrowing owl.

(2) Impacts to Stephens' kangaroo rat shall be avoided to the maximum extent practicable. Where impacts are unavoidable, the following mitigation measures shall be required:

(A) Any impacted individuals must be relocated out of the impact area using methodologies approved by the Wildlife Agencies.

(B) Mitigation for impacts to occupied habitat must be through the conservation of occupied Stephen's kangaroo rat habitat or lands appropriate for restoration, management, and enhancement of Stephen's kangaroo rat burrowing and foraging requirements at a ratio of no less than 2:1 for the territory of the Stephen's kangaroo rat population.

(3) Impacts to suitable Arroyo toad breeding habitat or aestivation sites within one kilometer (3280 feet) in any direction of occupied breeding stream segments (unless very steep slopes or other barriers constrain movement) shall be avoided to the maximum extent practicable. If upland areas within 1 km are not utilized by Arroyo toads, as demonstrated by appropriate and adequate surveys, mitigation for Arroyo toad will not be required. Otherwise, where complete avoidance is infeasible, one or both of the following mitigation measures shall be required:

(A) Wetland mitigation may be required as described in the wetland section, with the additional requirement of mitigating with suitable Arroyo toad wetland habitats within the PAMA.

- (B) Suitable upland aestivation sites must be mitigated at 2:1 ratio with restoration of disturbed sites comprising at least one component. All mitigation for impacts to suitable arroyo toad upland aestivation sites should occur within 1 km of a known breeding population.
- (4) Biological buffers of at least 100 feet must be maintained adjacent to habitat occupied by Least Bell's Vireo.
- (5) Biological buffers of at least 100 feet must be maintained adjacent to habitat occupied by Southwestern Willow Flycatcher.
- (6) For other sensitive species of animals as defined in section 86.511, impacts shall be mitigated through habitat-based mitigation requirements as set forth in section 86.519. If impacts would have the effect of substantially reducing the viability of the affected population or the species, mitigation shall be in-kind and the mitigation ratio shall be based on the sensitivity of the species and population size, as determined in a biological analysis approved by the Director of the Department of Planning and Land Use.
- (d) In addition to any permit conditions, the following limitations shall apply to grading or clearing activities in areas where identified species are located:
- (1) Coastal cactus wren, *Campylorhynchus brunneicapillus cousei* - No grading or clearing of occupied habitat shall occur from February 15 and August 15.
- (2) Coastal California gnatcatcher, *Poliophtila californica californica* - No grading or clearing of occupied habitat shall occur from February 15 and August 1.
- (3) Least Bell's vireo, *Vireo belli pusillus* - No grading or clearing of occupied habitat shall occur from April 15 and September 1.
- (4) Southwestern willow flycatcher, *Empidonax traillii extimus* - No grading or clearing of occupied habitat shall occur from May 1 and August 1.
- (5) Arroyo toad, *Bufo californicus* – No grading or clearing of occupied wetland habitats shall occur from March 15 and July 15. No grading or clearing of suitable upland habitats from July 16 and March 14. Grading or clearing of suitable upland habitat must be monitored by a qualified biologist during grading or clearing activities to minimize impacts to the Arroyo toad; if Arroyo toads are present they shall be moved off site to suitable habitat within the PAMA and barriers shall be installed to prevent them from dispersing onto the project site during construction. Surveys for eggs and larvae should be conducted before any construction activities are conducted within suitable arroyo toad breeding habitat.
- (6) Burrowing owl, *Athene cunicularia* – No grading or clearing of occupied habitat shall occur from March 1 and August 31.



(7) Tricolored Blackbird, *Agelaius tricolor* – No grading or clearing of occupied habitat shall occur from March 15 and July 15.

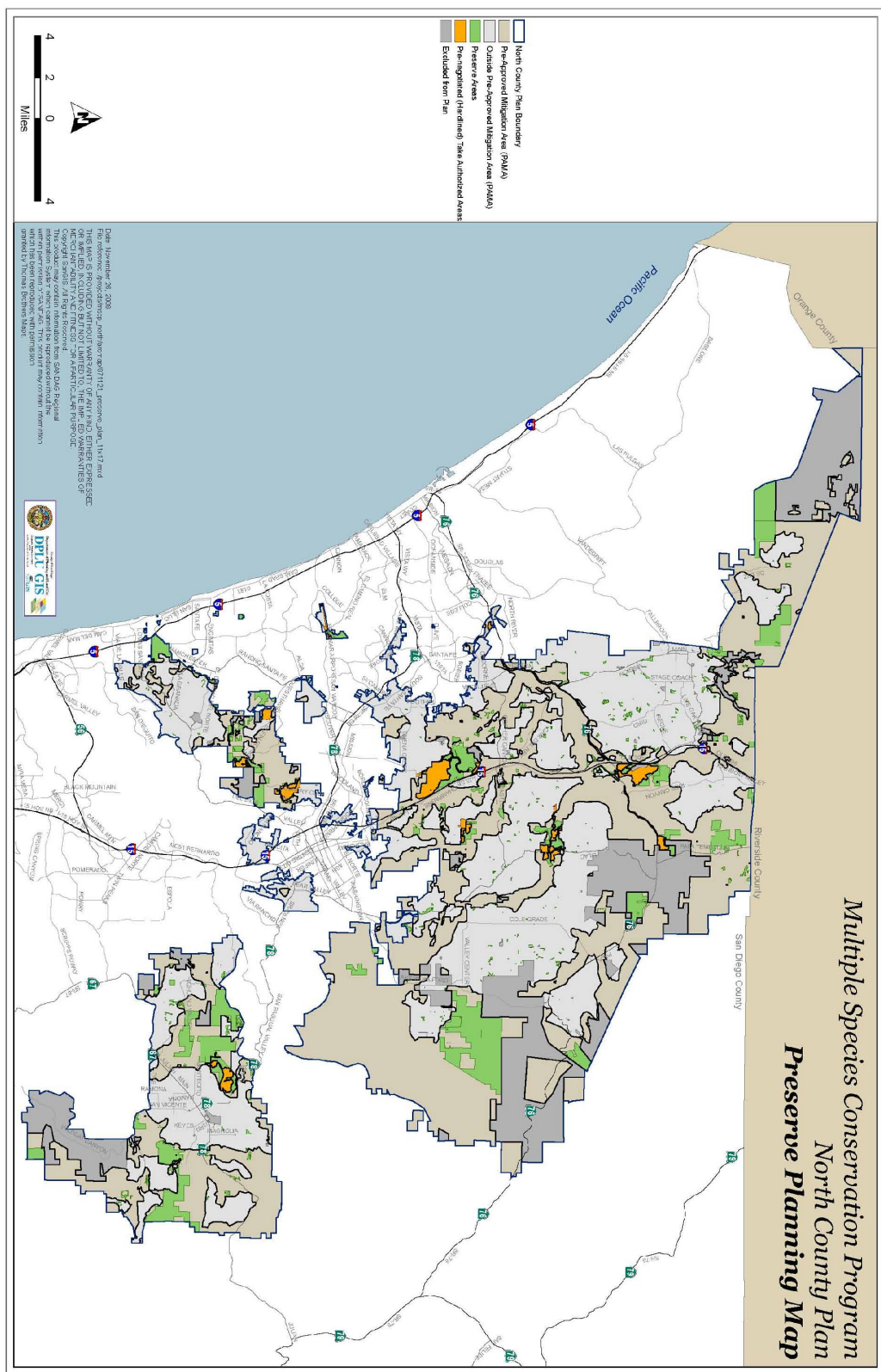
(8) Grasshopper Sparrow, *Aimophila ruficeps canescens* – No grading or clearing of occupied habitat shall occur from April 1 and July 1.

**Section \_\_.** The Ordinance shall take effect and be in force 30 days after the date of its passage, and before the expiration of 15 days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation.

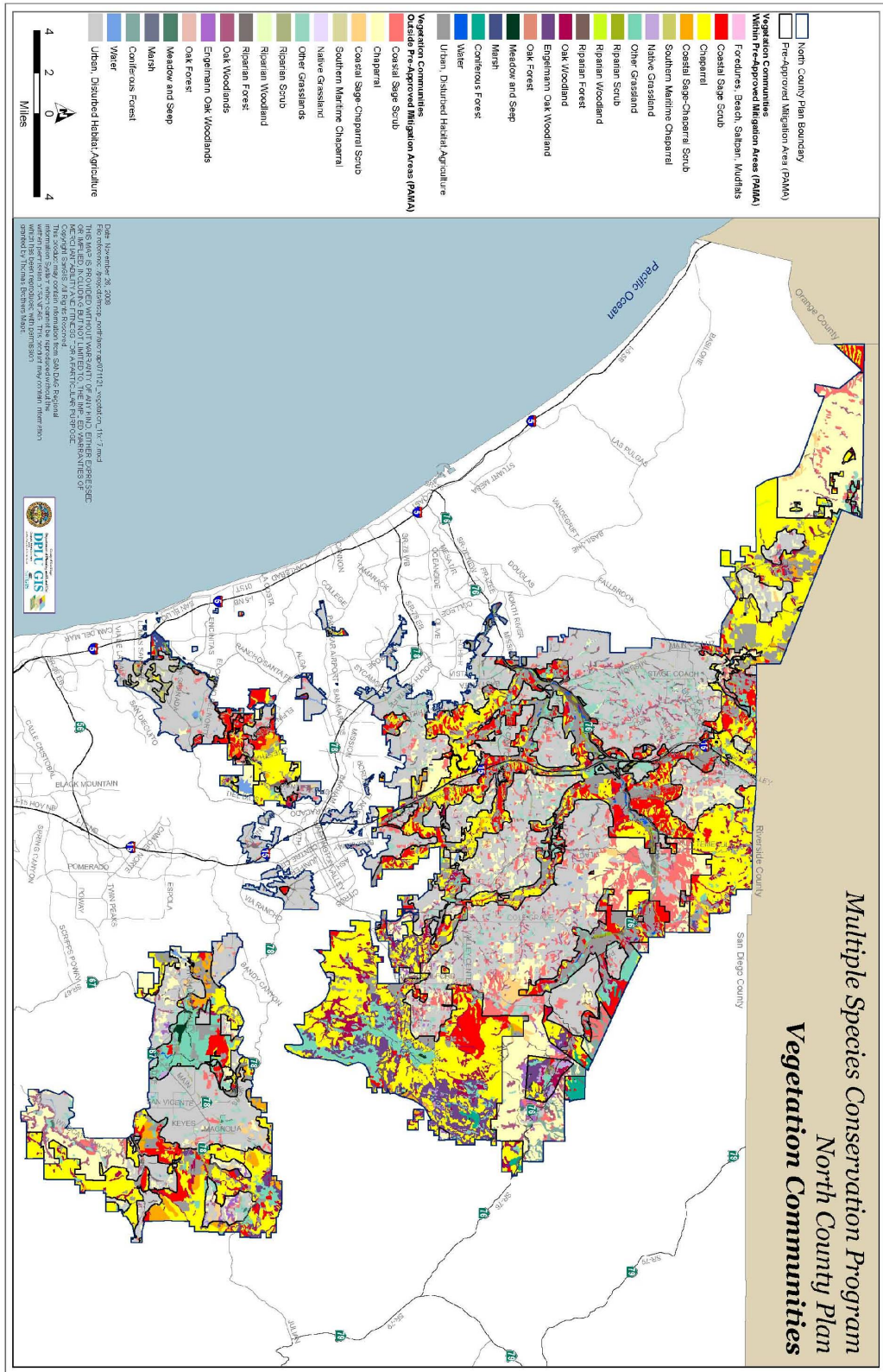
**LIST OF ATTACHMENTS FOR THE  
NORTH COUNTY BIOLOGICAL MITIGATION ORDINANCE**

- Attachment A - Map of North County Plan Area
- Attachment B - Map of North County Plan Vegetation Communities
- Attachment C - Map of North County Plan Core and Linkage Areas
- Attachment D - List of Vegetation Communities and their Tier Levels
- Attachment E - List of Rare and Narrow Endemic Species
- Attachment F - Downtown Ramona Vernal Pool Planning Area

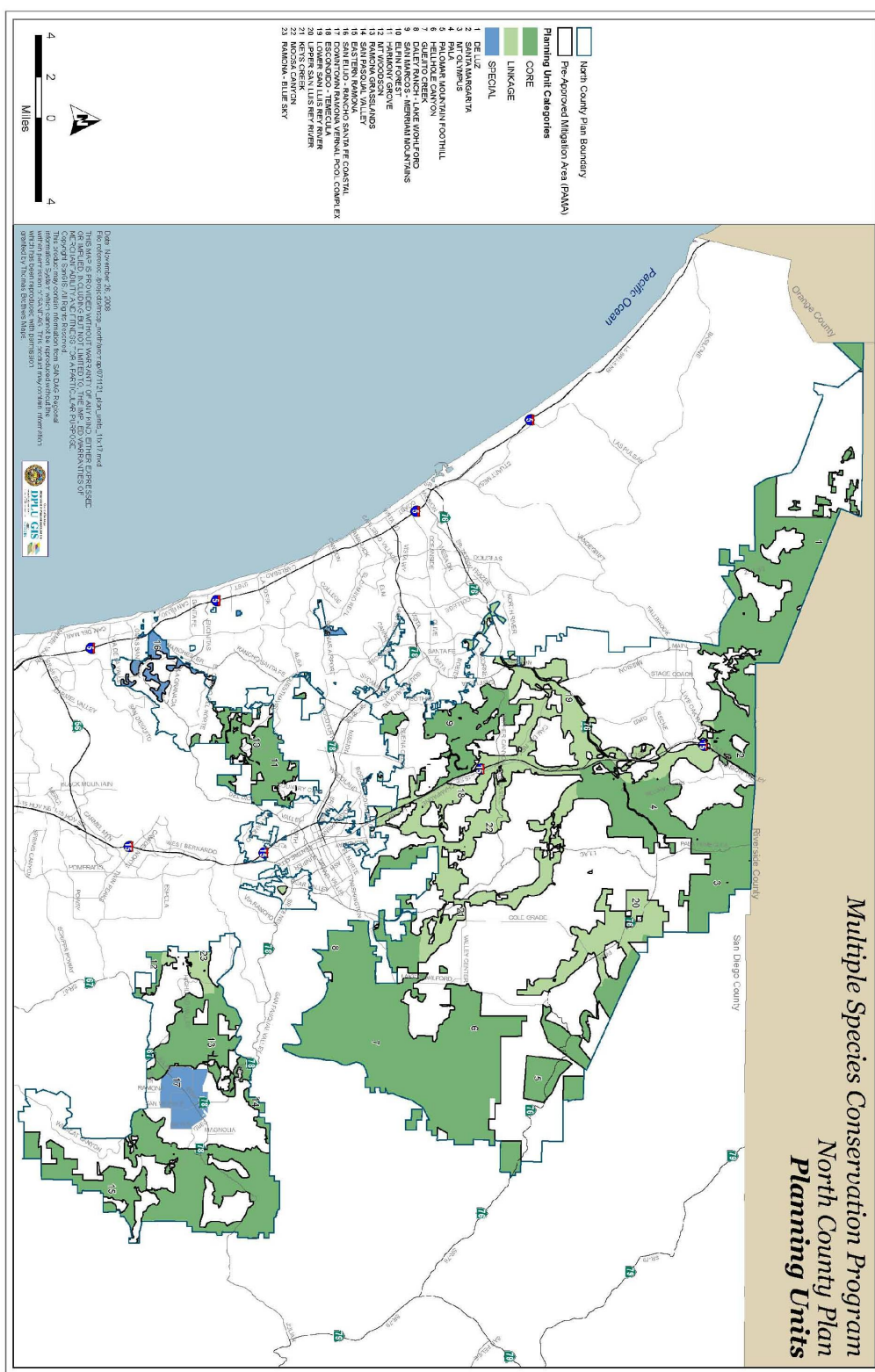
## **Attachment A - Map of North County Plan Area**



**Attachment B - Map of North County Plan Vegetation Communities**



## **Attachment C - Map of North County Plan Core and Linkage Areas**



**Attachment D - List of Vegetation Communities / Tier Levels**

Impacts to vegetation communities within the Plan area (Attachment A) shall be mitigated within the Plan area as shown on Attachment A.

**TIER I**

- Coniferous Forest (including Cypress Forest)
- Coastal Bluff Scrub
- Southern Maritime Chaparral\*
- Mafic Southern Mixed Chaparral and Mafic Chamise Chaparral
- Native Grassland\*
- Oak Woodlands and Broad Leaved Upland Forest (does not include scrub oak)
- Engelmann Oak Woodlands\*
- Maritime Succulent Scrub\*
- Wetlands\*, including Vernal Pools, Alkali Marsh, Freshwater Marsh, Riparian Forests, Riparian Woodlands, and Riparian Scrubs

**TIER II**

- Coastal Sage Scrub
- Coastal Sage/Chaparral Scrub
- Flat-topped Buckwheat

**TIER III**

- Chaparral (does not include Southern Maritime Chaparral, Mafic Chamise, Mafic, or Southern Mixed Chaparral)
- Non-native Grassland\*\*

**TIER IV**

- Disturbed Lands
- Agricultural Lands
- Eucalyptus Woodland
- Developed Lands

\* These vegetation communities require in-kind mitigation.

\*\* These vegetation types require in-kind mitigation when habitat occurs in blocks >30 acres or when habitat occurs in the Ramona Grasslands Core and Linkage or the Guejito Creek Core (Attachment C).



**Attachment E - List of Rare and Narrow Endemic Species**

	Common Name	Scientific Name	Where Applied
<b>PLANTS</b>			
1	San Diego thornmint	<i>Acanthomintha ilicifolia</i>	Plan Area
2	Spineshrub	<i>Adolphia californica</i>	In PAMA
3	San Diego ambrosia	<i>Ambrosia pumila</i>	Plan Area
4	Del Mar Manzanita	<i>Arctostaphylos glandulosa</i> ssp. <i>crassifolia</i>	Plan Area
5	Rainbow manzanita	<i>Arctostaphylos rainbowensis</i>	In PAMA
6	Coulter's Saltbrush	<i>Atriplex coulteri</i>	Plan Area
7	Parish brittlescale	<i>Atriplex parishii</i> var. <i>parishii</i>	Plan Area
8	Encinitas Baccharis	<i>Baccharis vanessae</i>	Plan Area
9	San Diego goldenstar	<i>Bloomeria clevelandii</i>	In PAMA
10	Thread-leaf brodiaea	<i>Brodiaea filifolia</i>	Plan Area
11	Orcutt's brodiaea	<i>Brodiaea orcuttii</i>	In PAMA
12	Southern tarplant	<i>Centromadia parryi</i> ssp. <i>australis</i>	In PAMA
13	Orcutt's Spineflower	<i>Chorizanthe orcuttiana</i>	Plan Area
14	Short-leaf dudleya	<i>Dudleya blochmaniae</i> ssp. <i>brevifolia</i>	Plan Area
15	Chaparral beargrass	<i>Nolina cismontana</i>	In PAMA
16	Gander's butterweed	<i>Packera ganderi</i>	In PAMA
17	Nuttall's scrub oak	<i>Quercus dumosa</i>	In PAMA
18	Parry's tetracoccus	<i>Tetracoccus dioicus</i>	In PAMA
<b>ANIMALS</b>			
19	Tricolored blackbird	<i>Agelaius tricolor</i>	In PAMA
20	Burrowing owl	<i>Athene cunicularia hypugaea</i>	Plan Area
21	San Diego fairy shrimp	<i>Branchinecta sandiegoensis</i>	Plan Area <sup>1</sup>
22	Cactus wren	<i>Campylorhynchus brunneicapillus</i>	Plan Area
23	Southwestern pond turtle	<i>Clemmys marmorata pallida</i>	Plan Area
24	Stephens' kangaroo rat	<i>Dipodomys stephensi</i>	Plan Area
25	Quino checkerspot butterfly	<i>Euphydryas editha quino</i>	Plan Area
26	Harbison's dun skipper	<i>Euphys vestris harbisoni</i>	In PAMA
27	Hermes copper	<i>Lycaena hermes</i>	Plan Area
28	Riverside fairy shrimp	<i>Streptocephalus woottoni</i>	Plan Area <sup>1</sup>
<b>Notes:</b>			
<sup>1</sup>	This does policy does not apply to the Downtown Ramona vernal pool area as shown in Attachment F.		

**Attachment F - Downtown Ramona Vernal Pool Planning Area**